

REMARKS

Claims 1 and 3-9 are pending herein. By the Office Action, claims 1, 3-4 and 8 are rejected under 35 U.S.C. §102; and claims 1-9 are rejected under 35 U.S.C. §103. By this Amendment, claim 2 is canceled and claims 1, 6, 7 and 9 are amended. No new matter is added.

Entry of this Amendment is proper under 37 C.F.R. §1.116 because the Amendment places the application in condition for allowance (for the reasons discussed herein) or places the application into better form for Appeal should an Appeal be necessary. The Amendment does not present any additional claims without canceling a corresponding number of finally rejected claims, does not raise the issue of new matter, and does not raise any new issues requiring additional search and/or consideration since the Amendment is directed to subject matter previously considered during prosecution. Furthermore, the amendments are necessary and were not earlier presented because they are in response to issues raised in the Final Rejection. Claim 1 is amended to incorporate the subject matter of claim 2. Applicants respectfully request entry of the Amendment.

Applicants thank the Examiner for the indication that the previous claim objections and rejections under §112 have been withdrawn.

I. **Rejection Under §102**

Claims 1, 3-4 and 8 are rejected under 35 U.S.C. §102(b) over JP 07-266517 (hereafter, "JP 517"). Applicants respectfully traverse this rejection.

Although Applicants do not agree with this rejection, for the reasons previously of record, claim 1 is amended herein to incorporate the subject matter of non-rejected claim 2. Accordingly, the rejection is overcome and must be withdrawn. Reconsideration and withdrawal of the rejection are respectfully requested.

II. Rejections Under §103

A. Claims 1-9

Claims 1-9 are rejected under 35 U.S.C. §103(a) over JP 960 in view of JP 919, Taniguchi and Hahn. Applicants respectfully traverse this rejection.

Independent claim 1 is directed to a laminated plastic molded body being a three-layered or five-layered laminated plastic molded body in which a resin layer A and a resin layer B are laminated alternately, and the resin layer A is a poly(ethylene terephthalate) resin layer, and the resin layer B interposed between said resin layers A is a polyolefin resin layer having a cyclic olefin component, wherein the total weight of the poly(ethylene terephthalate) resin constituting the resin layer A is 95 to 55% by weight and the total weight of the polyolefin resin layer having the cyclic olefin component constituting the resin layer B is 5 to 45% by weight. Such a laminated plastic molded body is nowhere taught or suggested by the cited references, alone or in combination.

As specifically recited in claim 1, the laminated plastic molded body of the claimed invention is formed as a laminate of two different resins, denoted resin A and resin B, where resin A is a poly(ethylene terephthalate) (PET) resin layer, and resin B is a polyolefin resin layer having a cyclic olefin component. Claim 1 further recites that the laminate is formed as either a 3- or 5- layer structure, where resins A and B are laminated alternately, and where resin layer B is interposed between the resin layers A. Thus, the laminated structure defined by claim 1 can be represented as A-B-A for a three-layer structure, or as A-B-A-B-A for a five-layer structure. See, for example, the enlarged portion of Fig. 1 of the present specification.

Claim 1 further specifies a relationship between the amounts of the respective resins A and B. That is, claim 1 requires that the total weight of the poly(ethylene terephthalate) resin layer A is 95 to 55% by weight and the total weight of the polyolefin resin layer B is 5

to 45% by weight. At least this limitation is nowhere taught or suggested in the cited references.

JP 960 is cited for its disclosure of a laminate structure for a container, where the laminate structure contains an internal layer of polyolefin and external layers of PET, polyethylene vinyl alcohol, or MX nylon. JP 919 is cited for its disclosure of a polyolefin resin having a cyclic olefin component. Taniguchi is cited for its disclosure of a specific PET composition, and Hahn is cited for its disclosure of biaxially drawn containers. Despite these disclosures, the cited references would not have rendered obvious the claimed invention to one of ordinary skill in the art.

The requirements for a prima facie case of obviousness are specified and described in MPEP §2143. According to MPEP §2143, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference. Second, there must be a reasonable expectation of success. Third, the prior art reference must teach or suggest all the claim limitations. The references applied in the Office Action fail to establish a prima facie case of obviousness, at least because they fail to teach or suggest all the claim limitations.

1. The References Do Not Teach or Suggest the Claimed A/B Weight Ratio

As mentioned above, claim 1 specifically requires a specified weight ratio between the component resins A and B. Claim 1 requires that the total weight of the poly(ethylene terephthalate) resin layer A is 95 to 55% by weight and the total weight of the polyolefin resin layer B is 5 to 45% by weight.

In contrast, neither JP 960 nor JP 919 provides any such teaching of a specific molar ratio between the component resins. JP 960 is entirely silent with respect to a weight ratio relationship between the layers A and B. Thus, JP 960 nowhere teaches or suggests that the PET resin layer A should be present in a greater amount by weight than the polyolefin resin

layer B, much less the specific weight ratios as claimed. JP 960 at most discloses that multiple layers can be used, and that the multiple layers can be PET and polyolefin, but fails to teach or suggest any relationship between the respective layers.

JP 919 does not overcome these deficiencies. JP 919 is cited only for its disclosure of a specific polyolefin resin. However, JP 919 is directed to a single-layer material, and thus utterly fails to provide any teaching that the polyolefin should be present in a specific weight ratio with respect to an (absent) PET layer. Accordingly, for at least this reason alone, the claims are patentable over the cited references.

2. The Claimed A/B Weight Ratio Provides Unexpected Results

Not only do the cited references not teach or suggest the instantly claimed weight ratio between the component resins A and B, but the cited references also fail to teach or suggest any benefits that are provided by such a ratio. The claimed invention thus provides unexpected results over the cited references.

For example, the present specification describes at page 3, second full paragraph, that the claimed weight ratio enables the production of laminated plastic molded bodies for which the cost of the raw resins is less expensive than for conventional plastic molded bodies, and the degrees of lowering in transparency and oxygen barrier properties are lowered. Furthermore, the laminated plastic molded bodies according to the claimed invention have extremely high barrier properties against humidity.

The cited references do not teach or suggest such properties, and do not teach or suggest that the properties could be obtained by selecting the weight ratio as claimed. Accordingly, for this additional reason, the claimed invention is patentable over the cited references.

3. The References Do Not Teach or Suggest the Claimed A-B-A or A-B-A-B-A Structure

At most, JP 960 teaches a multi-layer laminate that can include an internal layer of polyolefin and external layers of PET, ethylene vinyl alcohol, or MX nylon. However, the reference does not specifically teach or suggest that the final laminate structure should be the form PET-PO-PET or PET-PO-PET-PO-PET, as claimed. Rather, the reference specifically allows for a wide range of combinations of resin materials, such that ethylene vinyl alcohol and/or MX nylon could be used exclusively, or could be used as one layer while PET is used as another layer. Nowhere does the reference teach or suggest specifically selecting only PET and a particular PO, and forming a laminate as claimed.

4. The References Do Not Teach or Suggest the Claimed Polyolefin Resin With a Cyclic Olefin Component

Furthermore, JP 960 does not specifically teach or suggest that the PO should be a polyolefin resin layer having a cyclic olefin component, as claimed. To overcome this deficiency, the Office Action cites JP 919. However, neither JP 960 nor JP 919 provide the necessary motivation for one of ordinary skill in the art to have combined the cited references. Neither reference teaches or suggests that the use of a polyolefin resin having a cyclic olefin component, such as disclosed in JP 919, would have any benefit in the laminate structure of JP 960.

It is axiomatic in patent law that two references can not be combined to render obvious the claimed invention where there is no motivation in the references or elsewhere to make the asserted combination. For example, the Federal Circuit held in In re Oetiker that "[t]here must be some reason, suggestion or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination." 977 F.2d 1443, 1447, 24 USPQ2d 1443, 1446 (Fed. Cir. 1992). See also In re Geiger, 815 F.2d 686, 2 USPQ2d 1276 (Fed. Cir. 1987) ("Obviousness cannot be established by combining the teachings of the prior art

to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination."). No motivation has been shown for combining the cited references, with any expectation of success. Thus, it would not have been obvious to use JP 919's simple disclosure of a polyolefin resin having a cyclic olefin component in the laminate structure of JP 960.

Furthermore, JP 919 is directed to a single-layer structure, not a laminate of two different materials, as claimed. Nowhere does either JP 960 or JP 919 teach or suggest that the single-layer material of JP 919 could or should be substituted as one of the multi-layer materials of JP 960, to practice the claimed invention. In fact, because JP 919 teaches that the single layer structure is suitable, the references teach away from the asserted combination in favor of the simpler structure of JP 919 alone.

5. Taniguchi and Hahn Do Not Overcome the Above Deficiencies

The Office Action cites Taniguchi, for disclosing a resin material that includes a specified amount of polyethylene terephthalate-type polyester, poly(butylene terephthalate)-type polyester, and a metal salt of a copolymer. These teachings are irrelevant to amended claim 1. Claim 1 requires that the total weight of the poly(ethylene terephthalate) resin constituting the resin layer A is 95 to 55% by weight and the total weight of the polyolefin resin layer having the cyclic olefin component constituting the resin layer B is 5 to 45% by weight. Such a ratio between the PET resin and the PO resin is not taught or suggested by any of the cited references for the reasons described above, and would not have been obvious to one of ordinary skill in the art.

Hahn is cited for its disclosure of biaxially drawn blow molded materials. However, regardless of this disclosure, Hahn fails to overcome any of the above-described deficiencies of the other cited references. Even in view of Hahn, the remaining references fail to have rendered obvious the claimed invention, for all of the reasons discussed above.

6. Conclusion

Accordingly, the references fail to teach or suggest all of the limitations of the claimed invention. The claimed invention would not have been obvious to one of ordinary skill in the art over the cited references. Reconsideration and withdrawal of the rejection are respectfully requested.

B. Claims 2, 5-7 and 9

Claims 2, 5-7 and 9 are rejected under 35 U.S.C. §103(a) over JP 517 in view of Taniguchi and Hahn. Applicants respectfully traverse this rejection.

As described above, independent claim 1 is directed to a laminated plastic molded body being a three-layered or five-layered laminated plastic molded body in which a resin layer A and a resin layer B are laminated alternately, and the resin layer A is a poly(ethylene terephthalate) resin layer, and the resin layer B interposed between said resin layers A is a polyolefin resin layer having a cyclic olefin component, wherein the total weight of the poly(ethylene terephthalate) resin constituting the resin layer A is 95 to 55% by weight and the total weight of the polyolefin resin layer having the cyclic olefin component constituting the resin layer B is 5 to 45% by weight. Such a laminated plastic molded body would not have been obvious over the cited references.

Like JP 960 and JP 919, discussed above, JP 517 fails to teach or suggest the claimed invention. Like the other references, JP 517 at least fails to teach or suggest the specific claimed relationship between the weight amounts of the resin layer A and the resin layer B. Although JP 517 teaches that PET can be used as one layer, and polyolefin can be used as another layer, JP 517 is entirely silent with respect to a weight ratio relationship between the layers A and B. Thus, JP 517 nowhere teaches or suggests that the PET resin layer A should be present in a greater amount by weight than the polyolefin resin layer B, much less the specific weight ratios as claimed. JP 517 at most discloses that multiple layers can be used,

and that the multiple layers can be PET and polyolefin, but fails to teach or suggest any relationship between the respective layers.

Taniguchi and Hahn are cited for the same reasons as described above. However, similar to the rejection discussed above, Taniguchi and Hahn fail to overcome the deficiencies of JP 517. Neither Taniguchi nor Hahn teach or suggest that the laminate structure of JP 517 could or should be modified to use the resin materials A and B in the order and weight ratios required in the present claims.

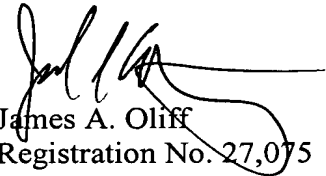
Accordingly, the references fail to teach or suggest all of the limitations of the claimed invention. The claimed invention would not have been obvious to one of ordinary skill in the art over the cited references. Reconsideration and withdrawal of the rejection are respectfully requested.

III. Conclusion

In view of the foregoing amendments and remarks, Applicants submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the application are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,



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